

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: SHARON COHEN LEVIN
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA, :

Plaintiff, :

- v. - : DECLARATION IN SUPPORT
: OF DEFAULT JUDGMENT
\$12,685,257.10 IN UNITED STATES : 07 Civ. 11089 (VM)
CURRENCY, :
:
Defendant-in-rem.
-----x

SHARON COHEN LEVIN, pursuant to 28 U.S.C. § 1746,
declares under penalty of perjury as follows:

1. I am an Assistant United States Attorney in the
Office of Michael J. Garcia, United States of Attorney for the
Southern District of New York, attorney for plaintiff herein. I
have responsibility for the above-captioned matter, and as such, I
am familiar with the facts and circumstances of this proceeding.
This declaration is submitted in support of plaintiff's request for
a default judgment in the above-captioned case.

2. On December 7, 2007, the United States
commenced a civil action for the forfeiture of the above-referenced
defendant-in-rem by filing a verified complaint. A copy of the
verified complaint is attached hereto as Exhibit A and is fully

incorporated by reference herein.

3. On December 11, 2007 a notice letter of the verified complaint was sent by certified mail, return receipt requested, to John W. Moscow, Esq., Baker & Hostetler, as attorney for Belle Six, 666 Fifth Ave., New York, NY 10103. Belle Six is the only person known by the Government to have a potential interest in the defendant property. A copy of the notice letter is attached hereto as Exhibit B.

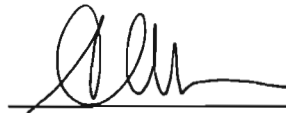
4. Notice of the Verified Complaint and in rem warrant against the defendant-in-rem was published in the New York Post once in each of the three successive weeks beginning on December 27, 2007 and proof of such publication was filed with the Clerk of this Court on April 28, 2008. A copy of this proof of publication is attached hereto as Exhibit C.

5. No claims or answers were filed or made in this action, and no parties have appeared to contest the action to date, and requisite time periods have expired.

6. Accordingly, the Government requests that the Court enter the proposed Default Judgment.

7. No previous application for the relief requested herein has been sought.

Dated: New York, New York
May 1, 2008

A handwritten signature in black ink, appearing to read 'Sharon', is positioned above a horizontal line.

SHARON COHEN LEVIN
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel. (212) 637-1060

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$12,685,257.10 IN UNITED STATES CURRENCY,

Defendant-in-rem.

**DECLARATION IN SUPPORT OF DEFAULT JUDGMENT
07 Civ. 11089 (VM)**

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for the United States of America
One St. Andrew's Plaza
New York, New York 10007

SHARON COHEN LEVIN
Assistant United States Attorney
-Of Counsel-

EXHIBIT A

MICHAEL J. GARCIA

United States Attorney for the
Southern District of New York
By: SHARON COHEN LEVIN
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
(212) 637-1060

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v.-

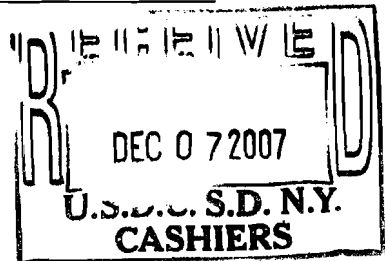
\$12,685,257.10 in UNITED STATES
CURRENCY,

Defendant in rem.

07 CV 11089

VERIFIED COMPLAINT

07 Civ.



Plaintiff United States of America, by its attorney,
Michael J. Garcia, United States Attorney for the Southern District
of New York, for its verified complaint alleges, upon information
and belief, as follows:

I. JURISDICTION AND VENUE

1. This action is brought pursuant to 18 U.S.C. §§
981(a)(1)(C) and 984 by the United States of America seeking the
forfeiture of \$12,685,257.10 in United States Currency (the
"Defendant in Rem").

2. This Court has jurisdiction pursuant to 28 U.S.C.
§§ 1345 and 1355.

3. Venue is proper pursuant to 28 U.S.C. § 1355(b)(1)(A) because acts and omissions giving rise to the forfeiture took place in the Southern District of New York and pursuant to 28 U.S.C. § 1395 because the Defendant in Rem is located in the Southern District of New York.

4. A sum of \$12,685,257.10 of the Defendant in Rem is currently being held on deposit in the Department of Treasury Seized Asset Deposit Fund.

III. PROBABLE CAUSE FOR FORFEITURE

Overview of the Conspiracy

5. Ernst & Young ("E&Y") was one of the largest accounting firms in the world. E&Y provided tax services to corporate and individual clients, including some of the wealthiest individuals in the United States. The tax services included preparing tax returns, providing tax advice and tax planning advice, and representing clients in audits by the Internal Revenue Service ("IRS") and litigation with the IRS in Tax Court. As part of its tax practice, E&Y had a business unit known as Personal Financial Counseling ("PFC"). PFC was responsible for providing tax advice, as well as financial planning advice, to individuals.

6. In or about 1998, the national leader of PFC formed a group that devoted itself to designing, marketing, and implementing high-fee tax strategies for individual clients. The group initially called itself the "VIPER Group" (an acronym for

"Value Ideas Produce Extraordinary Results"), but changed its name, in or about early 2000, to the "Strategic Individual Solutions Group," or "SISG." Members of the VIPER/SISG group worked together with banks, other financial institutions, law firms and tax shelter promoters to design, market and implement tax strategies to high net-worth clients for the purpose of eliminating, reducing or deferring taxes on significant income or gains.

7. Belle M. Six ("Six") was hired by E&Y in early 1998, as a member of the VIPER group. She was not an expert in tax, but was hired to help develop and coordinate the group's sales efforts. As a member of the group, Six participated together with other members in the development, marketing and implementation of tax shelters for E&Y's wealthy clients.

8. Six left E&Y in 1999, and subsequently worked at two other entities that were involved with E&Y in developing, marketing, and implementing tax shelters. Six acted as a liaison between these entities and E&Y.

Tax Shelter Fraud

9. From in or about 1998 through in or about 2004, Six participated in a scheme to defraud the IRS by misleading the IRS about the bona fides of E&Y's tax shelters. Based upon information and belief, Six and others made false and fraudulent statements through the mail and by interstate wire communications by deliberately generating false and fraudulent documentation, and

then submitted their false and fraudulent documentation to the IRS to conceal the true nature of E&Y's tax shelter transactions.

10. Among the fraudulent tax shelter transactions marketed and implemented on behalf of individual clients by Six and others were shelters called Contingent Deferred Swap ("CDS") and CDS Add-On. Six has admitted that with others, she helped develop false non-tax business reasons that could plausibly be advanced to justify these shelters to the IRS, and included those false reasons in transaction documents, correspondence, and other materials that would be sent to the IRS if E&Y's clients were audited. Generally, the tax shelters were designed to appear as financial investments rather than tax shelters, and the non-tax reasons the conspirators advanced related to supposed investment objectives. Six has admitted that the CDS and CDS Add-On shelters were vulnerable to IRS attack in certain respects, and that she and others submitted false and fraudulent documents to the IRS in an effort to avoid having the IRS learn of those vulnerabilities, and then seek to disallow the clients' tax positions.

11. For her participation in these tax shelter activities, Six received millions of dollars in compensation.

12. On or about June 14, 2007, Six entered into an agreement with the United States Attorney's Office for the Southern District of New York wherein she agreed, *inter alia*, to the forfeiture of the Defendant in Rem.

IV. CLAIM FOR FORFEITURE

13. Plaintiff repeats, realleges and incorporates by reference herein each and every allegation contained in paragraphs one through twelve of this Verified Complaint.

14. Title 18, United States Code, Section 981(a)(1)(C) subjects to forfeiture:


"[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting 'specific unlawful activity' (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense."

15. By reason of the above, the Defendant in Rem is subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C), because there is probable cause to believe that the Defendant in Rem constitutes property derived from mail fraud and wire fraud, in violations of Title 18 United States Code, Sections 1341 and 1343.

Dated: New York, New York
December 7, 2007

MICHAEL J. GARCIA
United States Attorney for
Plaintiff United States of America

By:




SHARON COHEN LEVIN
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
(212) 637-1060

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK :
SOUTHERN DISTRICT OF NEW YORK)

JEFFREY FATA, being duly sworn, deposes and says that he is a Special Agent with the Internal Revenue Service ("IRS") and as such has responsibility for the within action; that he has read the foregoing complaint and knows the contents thereof; and that the same is true to the best of his knowledge, information and belief.

The sources of deponent's information and the ground of his belief are official records and files of the IRS and other law enforcement agencies and information obtained directly by deponent and other case agents during an investigation of alleged violations of Title 18, United States Code, Sections 1341 and 1343.


JEFFREY FATA
Special Agent
Internal Revenue Service

Sworn to before me this
7th day of December, 2007

Notary Public

JEANETTE ANN GRAYEB
Notary Public, State of New York
No. 01GR4995793
Qualified in Kings County
Commission Expires Nov 30, 2009

EXHIBIT B

U.S. Department of Justice



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 11, 2007

CERTIFIED MAIL-RETURN
RECEIPT REQUESTED

John W. Moscow, Esq.
Attorney For Belle Six
Baker & Hostetler LLP
666 Fifth Ave.
New York, NY 10103

Re: U.S. v. \$12,685,257.10 in UNITED STATES CURRENCY
07 Civ. 11089

Dear Mr. Moscow:

This letter is to advise you that on December 7, 2007, the United States commenced a civil action in the United States District Court for the Southern District of New York seeking the forfeiture of the above-referenced property pursuant to 18 U.S.C. § 981(a)(1)(C). A copy of the complaint in this action is enclosed.

Should your client wish to contest the forfeiture, you must do so by filing a claim pursuant to Rule G of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure with the Clerk of the Court no later than thirty five (35) days of the date of this letter. Thereafter, within twenty (20) days after filing a claim, you must file your answer to the complaint. This procedure must be followed regardless of any petition for the remission or mitigation of forfeiture which you may have pending, and failure to do so could result in the entry of a default judgment against the property.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By: 

Sharon Cohen Levin
Assistant United States Attorney
Tel. No.: (212) 637-1060
Fax No: (212) 637-0421

Enclosure


[Home](#) | [Help](#)
[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: 7003 2260 0000 4034 6762
Status: **Delivered**

Your item was delivered at 1:10 pm on December 14, 2007 in NEW YORK, NY 10111. A proof of delivery record may be available through your local Post Office for a fee.

Additional information for this item is stored in files offline.

[Restore Offline Details >](#)

[Return to USPS.com Home >](#)

Track & Confirm

Enter Label/Receipt Number.

[Site Map](#)
[Contact Us](#)
[Forms](#)
[Gov't Services](#)
[Jobs](#)
[Privacy Policy](#)
[Terms of Use](#)
[National & Premier Accounts](#)

Copyright© 1999-2007 USPS. All Rights Reserved.

No FEAR Act EEO Data

FOIA



The All Independent
Postmarking System



Images As Seen
In Postage Mail

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To <i>John W. Moscow, Esq</i>	
Street, Apt. No., or PO Box No. <i>666 5th Ave</i>	
City, State, ZIP+4 <i>NY, NY 10103</i>	

PS Form 3800, June 2002 See Reverse for Instructions

EXHIBIT C

Department of the Treasury
Federal Law Enforcement Agencies
PROCESS RECEIPT AND RETURN

PLAINTIFF UNITED STATES OF AMERICA		COURT CASE NUMBER 07 Civ. 11089	
DEFENDANT \$12,685,257.10		TYPE OF PROCESS Publish Notice	
SERVE AT	John Ricupero 290 Broadway, 4th Fl., NY, NY 10007		
Send NOTICE OF SERVICE copy to Requester: U.S. ATTORNEY'S OFFICE- SDNY ONE SAINT ANDREWS PLAZA NEW YORK, NEW YORK 10007 ATTN: Tony Dulgerian		Number Of Process To Be Served In This Case.	
		Number Of Parties To Be Served In This Case.	
		Check Box If Service Is On USA	
SPECIAL INSTRUCTIONS or OTHER INFORMATION TO ASSIST IN EXPEDITING SERVICE AFTRAK #s: 13070039-01, 13070039-02, 13070039-03 Please publish the following for three consecutive weeks in a newspaper of general circulation. Please return to FSA Law Clerk Tony Dulgerian, 212-637-2404.			
Signature of Attorney or other Originator requesting service on behalf of AUSA Sharon Cohen Levin		[X] Plaintiff [] Defendant	Telephone No. 212-637-1060
SIGNATURE OF PERSON ACCEPTING PROCESS:		Date 1/25/08	
SPACE BELOW FOR USE OF TREASURY LAW ENFORCEMENT AGENCY			
I acknowledge receipt for the Total # of Process Indicated.	District of Origin No. 3	District to Serve No. 13	SIGNATURE OF AUTHORIZED TREASURY AGENCY OFFICER: [Signature] Date 1/25/08
I hereby Certify and Return That I [] PERSONALLY SERVED, [X] HAVE LEGAL EVIDENCE OF SERVICE, [] HAVE EXECUTED AS SHOWN IN "REMARKS", the Process Described on the Individual, Company, Corporation, Etc., At The Address Shown Above or at the Address Inserted Below.			
[] I HEREBY CERTIFY AND RETURN THAT I AM UNABLE TO LOCATE THE INDIVIDUAL, COMPANY, CORPORATION, ETC. NAMED ABOVE.			
NAME & TITLE of Individual Served If not shown above: J. Pollard Forfeiture Specialist		[] A Person of suitable age and discretion then residing in the defendant's usual place of abode	
ADDRESS: (Complete only if different than shown above.)		Date of Service	Time of Service [] AM [] PM
		Signature, Title and Treasury Agency	
REMARKS: See attached legal affidavit of Pollard			

TD F 90-22.48 (6/96)

Make (5) copies after form is signed. SEND ORIGINAL + 4 COPIES to TREASURY AGENCY. Retain Copy #5 for your file.

RETURNED COPY

State of New York
COUNTY OF NEW YORK

SS:

620212

INGRID CRISTIANI

being duly sworn,
says that he/she is the principal Clerk of the Publisher of the

New York Post

a daily newspaper of general circulation printed and published in the English language, in the County of New York, State of New York; that advertisement hereto annexed has been regularly published in the said "NEW YORK POST" once,

on the 27 day of December, 2007

on the 03 day of January, 2008

on the 10 day of January, 2008

USA-336-100-NOTICE OF CIVIL
FORFEITURE PROCEEDING Rev. 11/94
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
On December 7, 2007, the United States of America commenced a civil action demanding forfeiture thereof pursuant to 18 U.S.C. § 981 (a)(1)(C) for \$12,685,257.10 in United States Currency.
Notice is hereby given that all persons claiming the same or knowing or having anything to say why the same should not be forfeited pursuant to the prayer of said complaint, must file their claim in accordance with Rule G form the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions with the Clerk of the Court, in Room 120, United States Court House, 500 Pearl Street, New York, New York, by February 9, 2008 which is 30 days after the last publication of this action or within such additional time as may be allowed by the Court, and must serve their answers within 20 days after the filing of their claims, or default and forfeiture will be ordered. Any person with an interest in the property may also wish to file a petition for remission or mitigation of the forfeiture, as provided for in Title 28, Code of Federal Regulations, and failure to file such a petition may affect any rights that a person claiming an interest in the property may have with respect to this property.
Dated: New York, New York
December, 2007
MICHAEL J. GARCIA
United States Attorney
Secretary of Treasury

Ingrid Cristian

Sworn to before me this 10 day of January 2008

BYRON STEVENS
Notary Public, State of New York
No. 01ST6117803
Qualified in New York County
Commission Expires November 1, 2008

Notary Public